

Refugee Reports

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CANADA TAKES MORE RESTRICTIVE STANCE ON ASYLUM SEEKERS

A series of procedural changes that would restrict the entry of asylum seekers to Canada and curtail some of that country's liberal asylum policies--and reports that those measures will be made permanent in proposed legislation--have created controversy and confusion among refugee advocates, the general public, and asylum seekers on both sides of the border.

The Canadian-U.S. border has been the site of intense activity since President Reagan's signing of the Immigration Reform and Control Act in November. In December, more than 3,000 asylum seekers crossed into Canada. In the first six weeks of 1987, more than 6,000 additional asylum claims were made. The number of Salvadoran asylum seekers in January 1987 (1,800) was roughly equal to the number of Salvadoran asylum applicants during the entire previous year (1,875). "If this trend continues," said Gerry Weiner, Canadian Minister of State for Immigration, "these numbers will soon overwhelm our ability to deal with them."

On February 20, Canada announced a new series of administrative changes that cancelled the blanket policy on admissions and nondeportation that had been in effect for nationals from 18 countries characterized by unrest and civil strife. The countries on the "B-1" list were: Afghanistan, Albania, Cuba, Cambodia, El Salvador, Guatemala, Iran, Laos, Lebanon, China, Sri Lanka, Vietnam, and the USSR and its Warsaw Pact allies. Individuals from these countries had been allowed to enter Canada and automatically receive Minister's Permits (with a right to work) for up to one year, pending the outcome of their asylum claim. Even for those who did not meet the UN Convention definition of a refugee and were denied asylum, the Canadian policy since 1977 had been not to deport nationals to the countries on the B-1 list.

Under the new policy, the B-1 list is abolished, and all refugee claimants are dealt with in the same way both as regards asylum determination and work permits, as well as deportation.

A Canadian government cable released on February 20 said, "No person who is deserving of Canada's protection will be removed to a country where his or her

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This expanded issue looks at recent developments on the asylum front--stricter procedures in Canada and "push-backs" in Thailand, but also a Supreme Court decision which establishes a more generous standard for asylum in the United States.

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life might be in danger. But, effective today, we will no longer give blanket protection without regard to whether the person is the oppressed or the oppressor."

Asylum Seekers Must Wait on U.S. Side for Canadian Immigration Hearing The new policy also requires that refugee claimants coming from the United States remain in the United States pending a Canadian immigration hearing. In making the announcement, Benoit Bouchard, Minister of Employment and Immigration, referred specifically to the increased pressures on the border, saying, "A growing number of refugee claimants have been seeking to enter Canada from the United States, straining our ability to make decisions efficiently on their admissibility."

Under the new guidelines, asylum seekers are given appointment dates for hearings and required to remain in the United States until that time. This has resulted in unforeseen back-ups at border crossing points.

Sr. Bonnie Butler, coordinator of the Interfaith Refugee Assistance Project in Buffalo, New York, said that her group is currently assisting some 360 persons awaiting hearings. She told Refugee Reports that they are being housed for the most part by individuals and churches and are being "well-received" by the Buffalo community.

Central Americans Wait Nervously on the Border Sr. Bonnie observed, however, that the asylum seekers are "very upset and have a great deal of anxiety." She said that the vast majority of the people at the border are Salvadorans and Guatemalans, who, she said, "to varying degrees fear torture, imprisonment, or death if returned." She said they are very anxious to get into Canada because they are known to the Immigration and Naturalization Service (INS) and "are terrified of deportation."

Sr. Bonnie said that many of the asylum seekers are under the mistaken impression that the border is closed. "It is more difficult to enter, but not closed," she said.

Sr. Bonnie said that those approaching the border out of a fear of deportation should weigh the factors, and realize that if returned to the United States, they would have to pass through INS inspection. She said, however, that "if the fear is genuine, Canada remains an option."

Refugee service providers on the West

Coast report similar uncertainty and tension among asylum seekers on the border. Shirley Osterhaus of Central American Refugee Assistance (CARA) in Bellingham, Washington, said that the U.S. Supreme Court Cardoza-Fonseca decision, while most welcome, caused even greater confusion in the midst of these other changes (see Recent Developments). "The refugees feel as though they are bouncing from one side to the next," she said, not knowing which country presents the greater risks or opportunities.

Osterhaus estimated that about eight people per day are being turned back at the Blaine crossing (the crossing point to Vancouver). She said that when the policy first went into effect that people were given two week waits for their initial hearings. Already a backlog has been created such that the waiting period has grown to two months. She said that most of the aliens are being housed in people's homes, but that "we are trying to get the county to provide a large shelter in anticipation of the growing need." She noted that unlike earlier flows which were made up largely of single men, whole families are now appearing at the border.

Gerry Maffre, immigration spokesman for the Canadian Department of Employment and Immigration, said that the average waiting period for initial inquiries is now four to six weeks.

Duke Austin, spokesman for INS in Washington, D.C., said that INS on a case-by-case basis would try to make voluntary departure dates for deportable aliens coincide with the Canadian inquiry dates. He said, however, that if there are delays, INS district directors would be able to exercise their discretion to go forward with deportation orders. Austin said, "So far we have been able to accommodate the Canadians."

Cabinet Report Indicates Changes To Be Made Permanent A document approved by the Canadian cabinet's priorities and planning committee confirming that the interim changes would be incorporated in new legislative proposals was leaked to the Toronto Sunday Star on March 15.

In addition to abolishing the B-1 category and introducing stricter border controls, the new legislation would deny access to the refugee claims system for people "returnable to a safe third country," depending

on its human rights record, according to the Star.

The new legislation would also reportedly deport denied claimants in as little as three days.

Michael Lanphier, director of Canada's Refugee Documentation Project, told Refugee Reports that sending denied asylum seekers back to the United States would "put them at undue risk."

INS's Austin told Refugee Reports, "Once an illegal alien is admitted by Canada for an inquiry he has no right to reenter the United States. That would be an open invitation for all of them to take a shot at Canada and then come back." Austin said, "You can't return illegal aliens back to a country where they were previously illegal. You deport them to their homeland. We wouldn't take them back."

Canadian immigration spokesman Maffre said, "If we get to the point of deportation, the person would be deported to their homeland, not to the United States." He said that the issue of deportation is "some way down the road" for those now entering or seeking to enter the country. "They would have appeal rights that would need to be resolved."

Maffre also said that the debate in Canada has been "based on leaks and presumptions" and that "there has been no public discussion of what is meant by a 'safe third country.'" Maffre did say that, consistent with principles articulated by the government last May, "a person considered to be illegal by the United States would not be considered by Canada to have the protection of the United States."

Changes Would Limit Access to Canada by Asylum Seekers A provision reportedly included in the new legislation which is already included in the interim administrative changes is that transit visas would be required of people from 98 countries traveling through Canada to another country.

"With the new visa requirement, the government is using a procedural method to make a substantive change--that is, to keep refugees out," said Michael Schelew, the spokesman for refugee affairs for the Canadian section of Amnesty International. Schelew explained that people in the past have made asylum claims when airplanes make stopovers on Canadian territory.

Lanphier said, "The moves to make access more difficult would have the effect of reducing Canada's asylum granting function to the very, very minimum." He said that the changes are intended by the government to make Canada "exclusively a 'third country' of resettlement." Under this system admissions essentially would be limited and controlled through the processing of refugees by Canadian diplomatic posts outside the country.

There has recently been a great deal of criticism in the Canadian press about the cases of 85 Chileans in Argentina, who the Canadian government maintains must first apply as immigrants rather than refugees. Protests have included a 21-day hunger strike by 17 Chilean refugees in Canada.

Others criticize the refugee admissions policies as fundamentally flawed by excluding would-be refugees from the start. "Canada doesn't have a consulate in El Salvador or Guatemala, and third-world people generally have a great deal of difficulty getting into Canadian consulates," said Lanphier.

Canadian Press Speculates on Impact of Possible New Law on Refugee Determination In a scenario suggested by Toronto's Sunday Star, the new legislation would, in effect, make it almost impossible for a would-be asylum seeker from El Salvador or Guatemala to obtain asylum in Canada. He would be prevented from buying a plane ticket without a visa, which he wouldn't be able to obtain without a long wait because there is no Canadian embassy in the country. He could possibly travel to a neighboring country so long as it was one Canada would consider not to be a safe third country. While in the unsafe country and still fearing persecution, the person would have to wait again for a visiting Canadian officer to assess his refugee claim and employment potential. Then, the Canadian official would have to decide whether to accept him as part the quota of 3,000 Latin Americans to be admitted to Canada in 1987. If the applicant was rejected for overseas resettlement and then fled through the United States and sought asylum at the Canadian border, he would be sent back to the United States to await his hearing. At his hearing, the adjudicator would determine the United States to be a "safe country" and

return him within days.

As mentioned above, the INS takes the position that such a scenario would never take place because the United States would not be willing to accept illegal aliens denied asylum in Canada.

Maffre said that Canada does continue to issue visas from within Guatemala and that Salvadorans are serviced out of San Jose. He said that the 1987 regional target for overseas refugee admissions from Latin America is 3,200, that there is no numerical limit on privately sponsored refugees, and that asylum seekers on the Canadian border are not subject to Canada's worldwide quota of 12,000 refugee admissions.

Maffre said, "Technically the law requires a person to apply overseas for permanent residence in Canada. That notwithstanding, we are obligated by the UN Convention to respond to people who arrive at our borders claiming to be refugees."

Government Moves Stir Public Outcry in Support of Refugees The issues of border control and refugee protection have been the subjects of hot debate in Canada. The subject is receiving front-page coverage in the Canadian press and generating debate among the opposition political parties.

The Liberal Party member of the shadow cabinet responsible for immigration, Sergio Marchi, was quoted in the Canadian press as saying, "The longer legislation is delayed, the worse things get." He accused the government of "playing the politics of fear" by delaying legislation.

The Canadian press reported Progressive Conservative MP Jim Hawkes, chairman of the parliamentary committee on immigration, as saying that he didn't believe the measures would stand up under the Canadian Charter of Rights.

The Canadian Council of Catholic Bishops, on February 26, issued a statement that the new measures "may well serve to reinforce a fortress mentality in this country."

Lanphier told Refugee Reports that "the churches to the last one" have come out in opposition to the government position.

Howard Adelman, a professor of philosophy at York University and the founder of the Refugee Documentation Center, said, "The pro-refugee advocates were always seen as an elite kind of lobby without real political clout. All of a sudden, though, we find the

community coming together to fight this and discover that we do have a constituency."

Current Policy Reverses Recommendations of Government-Sponsored Study The new approach toward asylum seekers diverges significantly from a study commissioned by the government in 1985 and tabled by the Minister of Employment and Immigration in the House of Commons (see Refugee Reports, Vol. VI, No. 7),

The report, Refugee Determination in Canada, by Rabbi W. Gunther Plaut, made 89 recommendations for change of the refugee determination process. In a June 1985 press release, the government said the report and the public response to it "would form the basis of a major overhaul of legislation affecting refugee determination."

Rabbi Plaut told Refugee Reports, "The new procedural changes do not capture what I see as the spirit I would like Canada to express, and certainly not what I proposed in the report."

Plaut said that "refugee protection is not a function of border patrols" and that the mixing of the immigration control function and the refugee determination process is "inexcusable."

Maffre said, however, "Under the present system, no determination is being made by immigration officers at the border." In the initial inquiry, immigration officers simply gather information from the refugee claimant. "The immigration officer has no authority to say a claim is manifestly unfounded or to evaluate the claim in any way," said Maffre. Rather, he said, a transcript of the claimant's statement is forwarded to the Refugee Status Committee in Ottawa, which makes a preliminary determination whether the person meets the UN Convention definition of a refugee.

Plaut said that his report had been the subject of discussions several months ago involving the government and nongovernmental organizations in which, he said, he had thought that common understandings were reached involving relatively minor changes. However, Plaut said that the sudden influx of Central Americans "brought the xenophobes out of the woodwork just when we were on the verge of an agreement."

Plaut criticized the government for "listening to the most reactionary voices in the country and riding along with

xenophobic myths, such as the myth that we are overcrowded, when in fact we are underpopulated."

Maffre, while noting that the government position represents a preference for more limited access and for limiting of appeals to questions of law rather than merit, said, "In terms of our commitment to refugees, we still want to protect genuine refugees who arrive at our border."

Update

° On Sunday, March 15, a group of 108 Hmong living in Ban Vinai camp without proper registration were rounded up by Thai camp authorities to be taken to jail in the village of Pak Chom, 15 miles to the north. According to State Department sources, 38 people were selected out, handed over to Lao soldiers on the Thai side of the Mekong River, and escorted back to Laos.

The remaining 70 members of the group were placed in Pak Chom jail, joining 26 other Hmong who had been seized in a camp roundup earlier in the month.

On March 17, a group of 97 Hmong who had recently crossed over from Laos were stopped at a border checkpoint and subsequently repatriated.

"We are protesting this action to the Thai Government as a serious breach of human rights," State Department spokesman, Charles E. Redman, said, referring to the March 15 pushback. "We view this incident as possibly the most serious instance of forced repatriation from Thailand since 1979," he said. In June 1979, thousands of Cambodians were forced back over the Thai-Cambodian border near Preah Vihear.

One international relief official in Bangkok said he saw a "strong linkage" between the roundups at Ban Vinai and the treatment of Hmong at Nam Pun (see Recent Developments). He described the two incidents as "the beginning of the crisis of Hmong asylum in Thailand."

In the March 20 Washington Post, it was reported that William Brown, U.S. ambassador to Thailand, called at the Thai Foreign Ministry to "express strong concern" at the repatriation incident. Thai Deputy Foreign Minister Praphas Limphaphan said an investigation was taking place. He urged the

United States to resettle half of the estimated 50,000 highland Lao in Thailand.

° On March 1, some 230 "illegal" residents of Khao I Dang were re-located by Thai authorities to Site B, a camp on the Thai-Cambodian border 180 miles to the northeast. A U.S. State Department official told Refugee Reports that the transfer was "peaceful," and was monitored by the U.S. Embassy and international relief agency officials. Interviewing of the individuals was prohibited by the Thais, the official said.

A reporter for Agence France-Presse overheard one evacuee saying, "It is hopeless. My head is troubled. I came to go to a third country."

About 160 of the "illegals" had been in the Khao I Dang jail, according to the State Department official. Of the remainder, the official estimated that most had been rounded up in camp by Thai guards, but some may have volunteered to return to the border.

Khao I Dang, the last remaining camp for Cambodian refugees that is administered by the UN High Commissioner for Refugees, was closed by Thailand on December 31, 1986.

In a related development, on March 16, a group of 14 U.S. and international voluntary agencies in Thailand sent a cable to Secretary of State George Shultz urging him to initiate efforts to "maximize resettlement of the remaining Khao I Dang population and to ensure that the UNHCR's protection mandate is maintained for the inhabitants of this camp."

The cable reported that on the evening of March 4, Thai authorities conducted a search for additional unregistered residents and discovered "a network of crudely designed subterranean hideaways throughout the camp." Three Cambodians were imprisoned, and Thai authorities have announced that the remaining "illegals" have until March 15 to turn themselves in. "Thereafter," the cable said, "any refugee found hiding or otherwise assisting the unregistered will be punished."

InterAction, a coalition of 107 American private voluntary organizations, endorsed the cable in a March 17 letter to Shultz.

° On March 5, Ambassador Jonathan Moore, U.S. coordinator for refugee affairs, was appointed as director of the State Department's Bureau for Refugee Programs (BRP).

Moore will hold both positions concurrently. Robert L. Funseth, the former acting director, will continue to serve as BRP's senior deputy assistant secretary.

A government announcement stated that the responsibilities and relationships of the two offices "will remain as they are" but the new arrangement "will assure a closer working relationship between the two."

Recent Developments

SUPREME COURT UPHOLDS FEAR OF PERSECUTION AS BASIS FOR ASYLUM IN THE UNITED STATES

The U.S. Supreme Court decided on March 9 that the government has been advocating too strict a standard to decide whether or not to grant asylum to aliens who say they fear persecution in their homeland.

The court ruled that the correct standard for qualifying for asylum in the United States is "a well-founded fear of persecution." The decision was widely praised among attorneys working on asylum cases.

The standard had been challenged by the Reagan administration, which sought to apply the more restrictive "clear probability" of persecution standard currently used for withholding of deportation. "Clear probability" remains the standard in effect for withholding of deportation.

The decision was based on a case involving a Nicaraguan woman, Luz Marina Cardoza-Fonseca, who claimed a well-founded fear of persecution should she be returned to Nicaragua (see Refugee Reports, Vol. VII, No. 10).

Writing for the 6-to-3 majority, Associate Justice John Paul Stevens said that when Congress passed the Refugee Act of 1980, it had intended to bring U.S. law into conformity with the UN definition of a refugee as having a well-founded fear of persecution. "There is simply no room in the United Nations' definition," he wrote, "for concluding that because an applicant only has a 10 percent chance of being shot, tortured, or otherwise persecuted, that he or she has no 'well-founded fear' of the event happening."

In contrast, the government had argued that an asylum applicant needed to establish a "clear probability" of persecution based

on objective evidence that it would be "more likely than not" that he or she would be persecuted upon return.

Stevens held that the government's standard failed to take into account the subjective element of fear. He said that the eligibility standard "obviously...turn[s] to some extent on the subjective mental state of the alien."

The government, based on the position of the Board of Immigration Appeals (BIA), had argued that as a practical matter the "clear probability" and "well-founded fear" standards were not meaningfully different in adjudicating asylum applications.

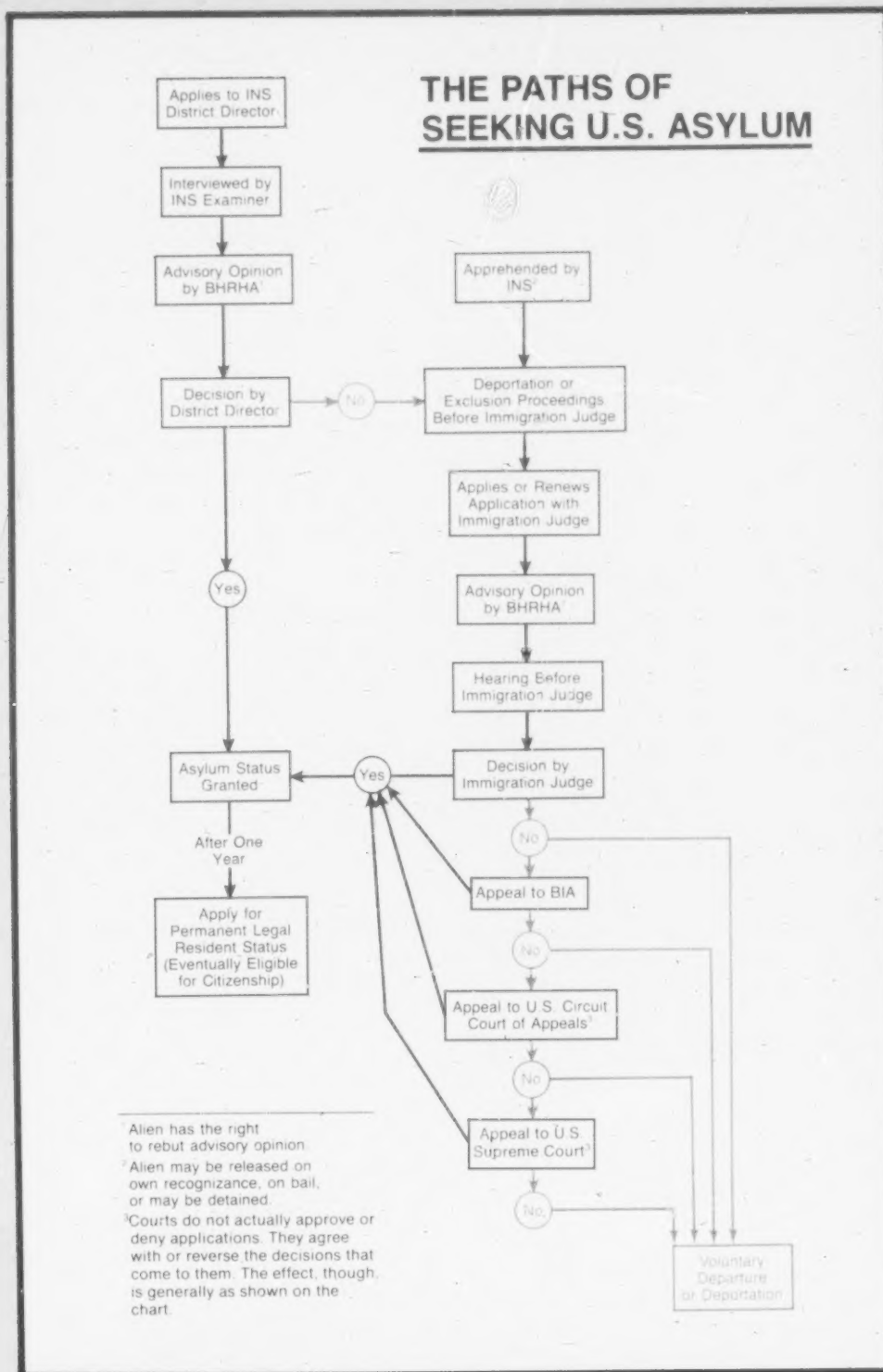
Minority Said Court Should Defer to Agency

Writing in dissent, Associate Justice Lewis F. Powell said that since the granting of asylum is at the discretion of the Attorney General, and since he has delegated that responsibility to the BIA, the court should defer to its experience and expertise. "The Board has examined more of these cases than any court ever has or can," Powell wrote. "It has made a considered judgment that the difference between the 'well-founded' and 'clear probability' standards is of no practical import." In urging that the Supreme Court defer to the BIA's expert judgment, Powell said, "The Court ignores the practical realities recognized by the expert agency and instead concentrates on semantic niceties." Powell was joined in his dissent by Chief Justice William Rehnquist and Associate Justice Byron White.

Former BIA Chairman Questions Powell's

Dissent Maurice Roberts, chairman of the BIA from 1968 to 1974, who drafted the Matter of Dunar BIA opinion quoted in support of Powell's dissenting opinion, told Refugee Reports that his opinion, written in 1973 before the 1980 Refugee Act had been enacted, was "based entirely on State Department testimony that U.S. accession to the UN Protocol in effect made the two standards the same, since 243(h) [the withholding of deportation standard] was the only statutory provision embodied at that time."

Roberts said, "Since the enactment of the Refugee Act of 1980, this has become a matter of statutory construction, not an area of administrative expertise." He said that the BIA has "no greater expertise than



From Despite a Generous Spirit: Denying Asylum in the United States, U.S. Committee for Refugees, December 1986.

the courts, and probably less, in interpreting the law."

In a separate judgment concurring with the majority, Associate Justice Antonin Scalia found Powell's deference to the BIA unconvincing. "Since the Court quite rightly concludes that the INS's interpretation is clearly inconsistent with the plain meaning of that phrase...there is simply no need and thus no justification for a discussion of whether the interpretation is entitled to deference."

Associate Justice Harry Blackmun also wrote a separate concurring opinion which took the Immigration and Naturalization Service (INS) to task for interpreting the law in a way "strikingly contrary to plain language and legislative history."

Asylum Grants Still at Discretion of the Attorney General The Supreme Court made it clear that finding that a person has a well-founded fear of persecution does not, by itself, entitle that person to asylum. Rather, it is a threshold test for determining a person's eligibility to be considered for asylum. The court essentially said that the threshold is lower for asylum than for withholding of deportation, since asylum is a discretionary grant but withholding of deportation is required in cases where persecution is more likely than not. The court did not say what effect this should have on the Attorney General's statutory discretion to grant asylum. Stevens wrote that the applicant who satisfies the well-founded fear standard "does not have a right to remain in the United States; he or she is simply eligible for asylum, if the Attorney General, in his discretion, chooses to grant it." In fact, the majority opinion held that it was increasing the flexibility of the Attorney General by making the threshold test less strict. "Whether or not a 'refugee' is eventually granted asylum is a matter which Congress has left for the Attorney General to decide," the Court found. "But it is clear that the Congress did not intend to restrict eligibility for that relief to those who could prove that it is more likely than not they will be persecuted if deported."

Warren Leiden, executive director of the American Immigration Lawyers Association, told Refugee Reports that, in practice, the Attorney General's discretion is

usually exercised in a negative way, that asylum would more likely be denied as a matter of discretion than granted. Typically, he said, asylum is denied by immigration adjudicators as a matter of discretion because the applicant used fraudulent travel documents or tried to circumvent normal overseas refugee processing procedures.

Carol Wolchok, director of the ACLU Political Asylum Project, said that the Attorney General's discretionary authority would not enable him to undermine the more generous standard established by Congress and confirmed by the Supreme Court. She called the decision "a tremendous victory."

Roberts, the former BIA chairman and current editor of the immigration law weekly, Interpreter Releases, agreed, saying, "Discretion means you weigh and balance adverse and positive factors; it can't be arbitrary or unreasoned." Any exercise of discretion that fails to be judicially exercised, according to Roberts, would be subject to review by the courts as an abuse of discretion.

Leiden praised the decision as "monumental" in terms of its potential qualitative effect on asylum adjudications and, perhaps, also on State Department advisory opinions.

Wolchok said that the decision would have the greatest impact on cases not yet heard, if immigration judges and the INS accept "the spirit of the decision that refugees should not be required to show a high degree of concrete evidence to support their asylum claims." She said, however, that the INS may shift the stringent standards of evidence to other areas, such as requiring proof that persecution is due to political opinion or other statutory grounds.

Effect of Decision Uncertain At this point it is unclear how many people will be affected by the decision. Leiden said he did not believe the decision would "open the flood gates." He estimates the number of new cases to arise from this to be from the hundreds to the low thousands.

INS spokesman Duke Austin told Refugee Reports, "I don't think the change of standard will motivate illegal aliens to come forward." He said that 99 percent of cases result from apprehensions, not from people coming forward.

Leiden also said that some denied asylum applicants will be able to reopen their

cases because the wrong standard was applied to them. He said, "I've seen cases where the judge or examiner said 'you have some justified fear, but no clear probability.'"

Others say, however, that judges have been making their decisions with the awareness that the Cardoza-Fonseca case was pending before the Supreme Court. "Most judges in denying asylum applications have said that the person met neither the 'clear probability' nor the 'well-founded fear' standard," said Carolyn Waller, director of the Alien Rights Law Project.

Austin said, "On the administrative level, by far the largest number of asylum denials have been based on the failure to establish a 'well-founded fear.'"

Waller said that the major importance of this "wonderful" decision was that "it didn't go the other way." While she said that the decision might not significantly change the way asylum cases are adjudicated, she commented, "Over the long haul, if the Court had ruled against Cardoza-Fonseca, it would have 'closed the door.'"

The decision raises the question whether large scale reopening of cases could occur because of widespread use of the stricter standard. Justice Blackmun wrote that "with one exception...all the Courts of Appeals that have addressed this question have concluded that the standards for withholding of deportation and granting asylum are not the same." This would suggest that in all but one federal circuit, denied applicants would not be able to reopen their cases. Wolchok disagrees. She said that aside from the ninth circuit, only the second and fifth circuits had addressed the question and decided in favor of the "well-founded fear" standard, and that those decisions were relatively recent. All of the other circuits, according to Wolchok, have applied the "clear probability" standard.

Wolchok said that attorneys who want to reopen cases will now have to show the BIA how the wrong standard was applied to their clients and how their clients meet the more generous "well-founded fear" standard.

HOUSE SUBCOMMITTEE ON ASIAN AFFAIRS HOLDS HEARINGS ON REFUGEES IN THAILAND

The refugee situation in Thailand and conditions inside Laos and Cambodia were the

focus of two hearings convened in March by the House Subcommittee on Asian and Pacific Affairs. Rep. Stephen J. Solarz (D-N.Y.), chairman of the subcommittee, said he was "deeply disturbed about the reports we are receiving about the treatment of some refugees in Thailand." Solarz called on both government and private witnesses to testify regarding U.S. policy on the closing of Khao I Dang camp, security problems at the Thai-Cambodian border, and "pushbacks" of Laotian asylum seekers trying to enter Thailand.

State Department Questioned on Cambodian Rejections At the hearings for government witnesses on March 11, Solarz inquired about the 14,000 Cambodians in Khao I Dang who have been rejected for resettlement by the United States. "I can't believe they would be rejected on the grounds that they didn't have a 'well-founded fear of persecution,'" he said. "Is there any possibility that this could be reviewed?"

The rejected Cambodian applicants "have been denied resettlement to the U.S. by the INS [Immigration and Naturalization Service] based on the provisions of the Immigration and Nationality Act," stated Robert L. Funseth, senior deputy assistant secretary in the State Department's Bureau for Refugee Programs (BRP). Funseth also noted that INS had rejected some people on the basis of "suspicions of Khmer Rouge affiliations." He said that one review had already been conducted in February 1985, but that Ambassador Jonathan Moore, the U.S. Coordinator for Refugee Affairs and recently appointed director of BRP, was still weighing the merits of an additional review.

State Department Authorizes Additional Processing From Khao I Dang Funseth said that the State Department had recently authorized processing for certain members of the "family card holder" and "ration card holder" groups. Refugee processing has been authorized for about 2,000 more family card holders, who entered Khao I Dang without authorization between March 1983 and August 1984. Their status was regularized by a census in August 1984, and they are generally acknowledged as refugees.

Limited processing of ration card holders has also been authorized, according to Funseth, involving only "close family members" of people already approved for

admission to the United States. The ration card holders, who number about 7,100, entered Khao I Dang without authorization between August 1984 and October 1985.

Status of "Refugees" and "Displaced Persons" Debated

"Is there any reason why we don't interview more ration card holders?" Solarz asked. "We are interviewing some," said Funseth, but this group is "not recognized as refugees." He added, "This is not just a U.S. position but an international position. The logic is that these people come from the 'displaced person' population" on the Thai-Cambodian border.

The Thai government has given the status of "displaced persons" to the 270,000 Cambodians on the border, most of whom entered Thailand in 1984 and 1985, following a series of fierce Vietnamese offensives against the resistance forces. Thailand generally has not permitted them to apply for resettlement.

"This is an Alice-in-Wonderland situation if dates [of entry] are the only criteria for defining displaced persons and refugees," said Rep. Chester G. Atkins (D-Mass.). Funseth responded, "Thailand has the right to determine who is and who is not a refugee."

UNHCR Presence at the Border Discussed

"Given the mistreatment of Cambodians along the border, there seems to be a feeling that people would benefit if UNHCR [UN High Commissioner for Refugees] took over those facilities," commented Solarz. Currently, relief and assistance to the border camps are coordinated by the UN Border Relief Operation (UNBRO), a special agency created by the UN General Assembly in January 1982. Some protection functions are carried out by UNBRO and the International Committee of the Red Cross (ICRC).

In testimony before the subcommittee on March 4, Roger Winter, director of the U.S. Committee for Refugees, said, "The United States should press to have UNHCR exercise its full protective mandate" on the border.

"I have to ask the motivation behind this," said Funseth. "Will UNHCR do a better job than UNBRO and ICRC?" He said that UNBRO had an "implicit" protection mandate and ICRC an "explicit" one. "The issue is not which agency is responsible for protection," said Funseth, but rather a matter of

improving Thai and Cambodian security in the border camps.

Funseth pointed out several recent initiatives to improve border security. He noted that "the UN Secretary General has designated the UNHCR to continue its protection role for the Khao I Dang population who may be relocated to sites along the Thai-Cambodian border."

Additional new steps being undertaken, according to State Department testimony, include the clear separation of combatant and civilian populations at the border, establishment of an UNPRO protection officer, establishment of an international presence overnight in the border camps, and the institution of open markets to deter criminal black market activities.

Atkins called the ICRC protection mandate "limited" and said that UNHCR protection for Cambodians at the border would "end the fiction that they are displaced persons, and bring them under the color of international law."

"Not even UNHCR recognizes them as refugees," Funseth responded. "But the fact that one group are called 'displaced persons' and the other 'refugees' does not mean that protection should be any different. We just do not believe that changing agencies will, in and of itself, make a difference."

Condition of Highland Lao at Nam Pun Remains Unclear

Atkins questioned the State Department regarding the status of approximately 1,300 highland Lao stranded at the Thai-Lao border in the region of Nam Pun. About 550 crossed over into Thailand on February 5. The remainder have been living a precarious existence in the area for up to one year.

According to UNHCR sources, more than 700 of this group left their mountain camps on February 12 and travelled to the Thai village of Nam Pun where they petitioned for entry to the UNHCR refugee camps. Thai authorities refused their request and they were ordered to return to a site closer to the border.

One individual who visited the group of 700 in late February called their situation "truly desperate." He declined to be identified because his visit was unsanctioned. "Their greatest need is medicine," he told Refugee Reports, citing "a rash of illnesses," including malaria, diarrhea, festering

wounds, and gangrene. A "degree of starvation" was also in evidence, he said.

Access to the border camps has been severely restricted, Funseth said, although "there are new indications that, for the present, the group has access to adequate supplies of food." He noted that one of the most recent sources of information on this group's condition was the Thai military. Funseth said that food was being supplied by a private voluntary agency and the Thai military.

"When you have reports of starvation," Atkins responded, "it is not acceptable to say that the Thais say the situation is OK. We should insist on some tangible evidence."

Atkins asked the State Department to comment on reports that Thai authorities have been forcibly repatriating highland Lao, particularly Hmong (see Updates). The issue "seems to be a relatively low priority" for the U.S. Embassy in Thailand, Atkins said. "It has not been an issue of low priority," said Funseth. "The U.S. is adamantly opposed to the involuntary return of anyone anywhere. These highland Lao are people we are interested in. There is no possible misunderstanding in Bangkok of our position on this."

Winter, in his March 4 testimony, said, "In 1986, UNHCR documented 362 cases of pushbacks. The real number is undoubtedly much higher." He added that "whatever actions U.S. authorities may have tried so far to stop this violation of fundamental access to first asylum have proven ineffective." He urged that "the U.S. should intervene more vigorously."

INDOCHINESE-AMERICAN TEAM RETURNS FROM FACT-FINDING VISIT TO SOUTHEAST ASIA

An interethnic group of five former refugees, returning in last February from a fact-finding visit to refugee camps in Southeast Asia, called upon the United States and the international community to recommit themselves to refugee protection and assistance in the region. At a press conference sponsored by several members of Congress, Sen. Mark O. Hatfield (P-Ore.) said the "historic" trip provided a "novel perspective on the current refugee situation."

"We have been considered a problem; now

we are determined to be part of the solution," said Le Xuan Khoa, president of the Indochina Resource Action Center (IRAC) and leader of the delegation. Visiting a total of 14 camps in four countries--Thailand, Hong Kong, Malaysia, and the Philippines--the group identified needs and made recommendations in the areas of refugee protection, assistance, and processing.

Protection of the 270,000 people along the Thai-Cambodian border "remains the most serious concern in the region," said Khoa. The team's recommendations included an international staff presence in border camps during the night, the strengthening of refugee leadership in camps, the development of ethnic security units within each camp, and monitoring of incidents of violence by the UN High Commissioner for Refugees.

The team also recommended that health and mental health services, as well as education programs, be expanded in the camps, noting that many refugees face extended stays there. "Indochinese-Americans should be encouraged to return and provide support" for such efforts, Khoa said. "After nearly twelve years, we are committed to sharing responsibility for the refugees."

Accompanying Khoa on the trip were Tony Vang, executive director of Lao Family Community of Fresno, California; Yang Sam, executive director of the Southeast Asian MAA Coalition in Philadelphia; Tran Minh Tung, M.D., psychiatrist and president of the Vietnamese-American Health Care Association; and Nguyen Van Hien, president of Vinaport Fish Processing Company in Bayou la Batre, Alabama.

CUBAN-HAITIAN ADJUSTMENT BEGINS

Several thousand Haitians, mostly in south Florida, have already requested application forms to adjust their status under the Cuban-Haitian adjustment section of the Immigration Reform and Control Act, according to officials of the Immigration and Naturalization Service (INS) and private agencies.

Those INS approves for adjustment under the new regulations implementing the law may become lawful permanent residents, retroactive to January 1, 1982. INS estimates that between 40,000 and 50,000 people, nearly all of them Haitians, may be eligible to adjust.

INS announced that it would accept applications for adjustment on March 10. Thus far, officials said, only the Miami district office has been busy responding to requests.

Though the new regulations cover both Cubans and Haitians, INS officials believe only a small number of Cubans will adjust under this law, since most have applied to become lawful residents under previous adjustment acts.

Most of the eligible Cubans and Haitians are now "entrants"--a temporary legal status granted to those who arrived prior to October 1980, including those in the Mariel boatlift. Also potentially eligible are the 1,500 to 2,000 so-called "Spellman Haitians," those who arrived after October 1980, were detained, and subsequently ordered released in June 1982 by Judge Eugene P. Spellman of U.S. District Court for South Florida.

Under this adjustment, several grounds for excluding aliens have been waived, including the potential for being a public charge and illiteracy. However, according to Joseph D. Cuddihy, INS senior immigration examiner, "We don't anticipate that anyone in detention will be eligible, though there is nothing to stop them from applying." For the most part, many Haitians in detention since prior to January 1, 1982, have mental health problems, and would be excludable on medical grounds, according to Cuddihy.

Cuddihy said the government has no plans to test Haitian adjustment applicants for acquired immune deficiency syndrome (AIDS). "We do not intend to do anything different for Cubans and Haitians than we do with other immigrants," he said. For a time Haitians were designated as a "high risk" group for AIDS by the Centers for Disease Control (CDC).

Cuddihy said the CDC has proposed a controversial change in the Immigration and Nationality Act (INA) which would add AIDS to a list of dangerous and contagious diseases that make victims excludable on medical grounds. Diseases now on the list include tuberculosis and syphilis. No final action has been taken on this proposed rule.

Difficulties in Applying for Adjustment
Noted In Miami, where INS conducted a training session on March 4 for voluntary

agencies and others interested in assisting with adjustment cases, nearly 30,000 application packets have been distributed. Those who want to assist are not required to complete an agreement with INS. As a result, a number of individuals and agencies in the Miami area, and elsewhere in Florida, are distributing the INS packets.

Some of them may be promoting themselves as adjustment counselors when they actually have little or no experience, according to private agency sources. This can lead to the filing of applications which are incomplete or in error, according to Marti Walsh, regional director of Lutheran Ministries of Florida in Miami.

Walsh had a warning for unqualified adjustment advisors: "In Florida, it's against the law to charge for legal advice if you're not an attorney."

There are also a number of problems related to the documents themselves and the process for filing them, according to Catherine Cassidy, an attorney with Florida Rural Legal Services in Ft. Pierce, Florida. Cassidy said that INS is requiring applicants to submit their documents either in person at the Miami district office, through a private agency like hers, or through one of seven INS application centers, none of which has opened. "We don't understand why they can't be mailed back," she said.

Cuddihy responded that there is nothing in the regulations that prohibit applications from being returned by mail.

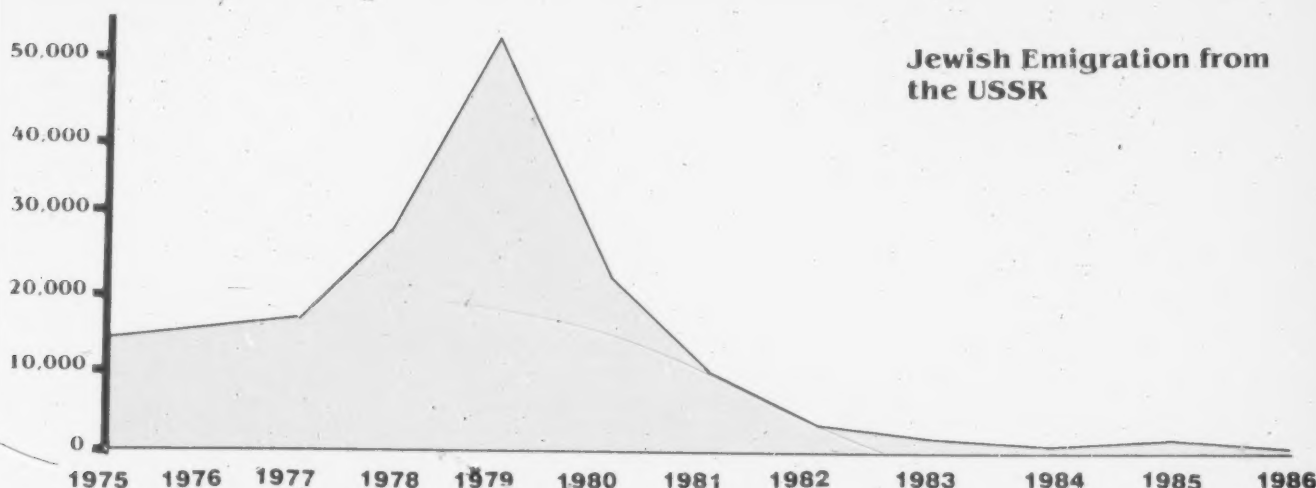
Cassidy also noted that applicants receive no receipt, a situation that could lead to delay if documents become lost.

Generally, however, those concerned with Haitian adjustment seem to feel it will be a success. "In Miami there has been an excellent beginning to the program," said Michael Hooper of the Coalition for Haitian Refugees. "INS is playing a major role. It is not simply being a receiver."

Walsh said, "The most positive thing that could happen would be to get Haitians to come forward and apply." She said if the Haitian program succeeds, those eligible for legalization will note it and come forward on May 5, the date when the legalization program begins.

The regulations, published in the March 2 Federal Register, have an effective date of November 6, 1986, the date the president signed the immigration reform bill into law.

Jewish Emigration from the USSR



Applications for Cuban-Haitian adjustment must be filed by November 5, 1988.

ISRAEL ASKS UNITED STATES NOT TO ADMIT SOVIET JEWS AS REFUGEES

In his meetings with U.S. Secretary of State George Shultz on February 18, Israeli Prime Minister Yitzhak Shamir asked the United States not to accord refugee status to Jews emigrating from the Soviet Union.

Shamir reportedly told Shultz that U.S. policies in recent years had encouraged 80 percent of Soviet Jewish emigrants destined for Israel to opt instead for the United States.

The Soviet Union gives permission to emigrate based on letters of invitation from relatives in Israel. Would-be emigrants receive Israeli visas through the Dutch embassy in Moscow and receive exit permits for Israel. However, upon arrival in Vienna, many prefer to go to the United States instead. The Soviets rarely accept letters of invitation from countries other than Israel.

Shamir contends that Soviet Jewish emigres are not refugees at all. "All Jews leaving the Soviet Union are issued Israeli visas," he is reported to have said. "At that moment they are Israeli citizens. They are not refugees. They are not a homeless people."

Karl Zukerman, executive vice president of the Hebrew Immigrant Aid Society (HIAS),

told Refugee Reports, "Although in the Zionist lexicon there is no reason for a Jew to be called a refugee anymore [since they all have a homeland in Israel], Soviet Jews do meet the definition of refugee in international law since they do face religious persecution in the USSR."

Zukerman said, "Based on what the American Jewish community learned from the horrible experience of 50 years ago, we would want the United States to remain available to Jew: who wish to come here and would oppose any effort by the U.S. government to restrict Jewish entry to the United States."

A spokesman for the State Department told Refugee Reports, "Administration policy has been and continues to be to adhere to freedom of choice and continued refugee status for Soviet Jews."

American Jewish Community Responds to Israeli Request Using the Hebrew term for immigration to Israel, Warren W. Eisenberg, director of the International Council of B'nai B'rith, told Refugee Reports, "We support aliya to Israel, but we also support freedom of choice. We would oppose any change in U.S. law for Jews in need of a haven from persecution."

Gary Rubin of the American Jewish Committee said, "While it is critical to rescue Jews from the Soviet Union, and while Jewish organizations have an obligation in that rescue, it is not for us to tell Soviet Jews where they should go." He said the goal of the world Jewish community, rather,

should be to keep as many avenues of Jewish rescue open as possible.

Other Jewish community organizations have been more supportive of the Israeli position. Elaine Cooper, director of national programs of the Zionist Organization of America, said, "As Zionists, we agree that Jews with valid Israeli visas are not refugees. They have a place in which to make new lives in a land that seeks and welcomes them." Cooper went on to say, "Those Soviet Jews who are in Israel and subsequently decide they do not wish to remain are free to leave for any country of their choice." She said that she hoped that they would choose to remain in Israel.

Cooper said, however, that the Zionist Organization of America has stopped short of recommending that refugee status should be eliminated, saying such a step could have complex ramifications and that "we wouldn't want to do anything to hamper the rescue of Soviet Jews."

Other Jewish groups are still considering the issue. Morris B. Abram, chairman of the National Conference on Soviet Jewry (NCSJ), said, "The Prime Minister and the [American Jewish] community are as one, both on the need for substantial and sustained emigration from the Soviet Union to the State of Israel, and that the claim for repatriation to Israel is a valid and compelling argument." But Abram indicated that the NCSJ has not yet taken a position on the question, saying the issue "has now been squarely placed on the agenda of the American Jewish community for careful consideration as an urgent item affecting the welfare of the Jewish people as a whole."

INS PUBLISHES PROPOSED RULES ON LEGALIZATION, PRIVATE AGENCIES CONCERNED

The Immigration and Naturalization Service (INS), on March 18, published its proposed rules to implement the legalization provisions of the immigration act that was signed into law last November. A coalition of national and community organizations, meanwhile, has voiced deep concerns that the restrictive approach INS is taking in the legalization effort is making cooperation extremely difficult.

A March 10 letter to INS Commissioner Alan C. Nelson that was signed by 29 volun-

tary agencies, trade unions, and public interest groups expressed commitment to the legalization program, but added, "Our commitment and preparation to participate should not be misinterpreted as a willingness to accept an unworkable cooperative agreement and regulations that are contrary to the intent of Congress."

The organizations said that their concerns were serious enough to affect their "possible involvement nationally or locally as Qualified Designated Entities" (QDEs) in the legalization program. The Immigration Reform and Control Act of 1986 allows people seeking legalization to file their applications either directly with INS or with a "qualified designated entity"--voluntary organizations, or state, local, and community organizations designated by INS.

On March 2, INS published guidelines for the cooperative agreements with QDEs, giving an applications deadline of April 10 for the initial cycle of proposals. The basic function of QDEs, as spelled out in the INS guidelines, is "to provide information and assistance in a risk-free environment to aliens seeking to apply for legalization" and "to encourage mass participation by eligible applicants."

INS has indicated that it is preparing to handle up to 3.9 to 4 million applications in the one-year period--May 5, 1987 to May 4, 1988--during which legalization applications will be accepted. Nelson said that actual applications will probably number around 2 million.

To process such a large volume of cases, INS will be establishing more than 100 special legalization offices around the country, in addition to contracting for the services of QDEs.

Officials of national voluntary agencies, however, are seriously questioning the advantages of becoming QDEs. After a March 18 meeting with INS, several agency officials said progress was made on a few issues but problems remain, both with the cooperative agreement and with the legalization regulations.

"We're proceeding as though we are going to be a QDE, but there are still many unanswered questions," said Chris Gaffney of the American Council for Nationalities Service (ACNS).

"The problem with the proposed regulations is that they are not inclusive,"

Gaffney said. "They are designed to make it difficult for an alien to apply. That makes the job of the QDEs harder and thus more expensive." One example she gave was the INS requirement that an alien provide extensive documentation establishing that he or she has resided continuously in the United States since January 1, 1982.

"Stringent requirements" regarding the duration of absences allowed to alien applicants was also criticized by Monsignor Nicholas DiMarzio, executive director of the U.S. Catholic Conference Migration and Refugee Services. Proposed INS regulations would disqualify any person who had left the country for a 45-day period, or for a total of 180 days, since January 1982. This was not consistent with "precedent in other areas of international law," DiMarzio said.

Volags Question Fees Restrictive INS regulations have been compounded by funding and fee limitations imposed on QDEs, according to Gaffney. In the cooperative agreement guidelines, INS indicated it will reimburse QDEs \$15 for every application it accepts from the QDE. INS will not reimburse for any application a QDE processes but does not submit, nor will it reimburse for applications that are not accepted as complete by the legalization office. This figure is "inadequate," Gaffney said.

In addition, INS has set a cap of \$75 on the fees that a QDE can charge an applicant for counseling. Various voluntary agency officials have estimated that their average costs for processing a case could run from \$100 to \$200. INS has set its own basic application fee at \$185.

Some aspects of the cooperative agreement have been renegotiated, according to Gilbert Carasco, USCC director of immigration services. "Up-front money" that INS will advance to national QDEs has been increased, Carasco said, and certain counseling services have been removed from the INS cap. "The cumulative effect" of regulatory and contractual restrictions "is still very burdensome," said Carasco.

"The private sector has wanted this [legalization] program a long time," Gaffney said. "We may have to put some of our own resources into this, but we shouldn't have to go broke on it."

Speaking on behalf of 8 to 15 local

National Council of La Raza affiliates interested in being QDEs, Charles Kamasaki, policy analysis director, said, "I doubt they're in a position that they can afford to lose money on this. If a decision had to be made today, our groups would be out."

Projects and Programs

OVERGROUND RAILROAD KEEPS HOPES ALIVE FOR CENTRAL AMERICANS

On a cold night, in a palm grove, "Maria's" baby was born.

No midwife called encouragement. No nurse took her blood pressure and no doctor, her pulse.

When her baby's body emerged, no trained hands reached out to clear the child's throat of fluids, no trained eyes watched for bleeding.

It was terribly dangerous. They were lucky to survive. But she would be safer here, in the Rio Grande Valley of Texas, than in her native country, El Salvador.

Or so she said to a member of the Overground Railroad, who brought her to the Catholic Sisters.

The Overground Railroad is a network of some fifty church congregations, and many more religious and lay workers, in the South, Midwest, and East who know that people like Maria and her child stand little chance of gaining asylum in the United States. So, they help Central Americans seek refuge legally in Canada by helping them apply for asylum at Canadian consulates in the United States.

Despite recent changes in Canadian refugee policy (see lead article, this issue), Canadian consulate officials said their policy has not changed. "There's been no impact whatsoever, thus far," said James Metcalfe, consul at Canada's Atlanta consulate, one that receives a large number of asylum applications from Central Americans.

Central Americans come to the "railroad system" in a number of ways. Some simply walk into the offices of places like the Reba Place Church in Evanston, Illinois. Others are found by railroad members in the Rio Grande Valley, or at Immigration and Naturalization Service (INS) detention

centers like the one at Los Fresnos, Texas, and are brought to Comer, Georgia, by a group called Jubilee Partners. Most of them are Guatemalans and Salvadorans. Some come alone; others bring their children. Since passage of the immigration act, their numbers have grown.

On the Overground Railroad, churches agree to sponsor Central Americans during the entire time they are in the process of applying for asylum in Canada. "They help get applicants on the political asylum track. They help with housing, and provide them with a living allowance," according to Mary Postel of Reba Place Church.

Railroad members assist asylum seekers in completing their applications, medical forms, and other required documents, and in preparing for the interview with a consular official.

Metcalf explains, "Applicants must meet two criteria: eligibility, whether they meet the United Nations and Canadian refugee definitions; and acceptability, which means their resettlement prospects in Canada." Applications must be well prepared, he said, and, in this regard, "Jubilee Partners provides an awful lot of assistance."

Metcalf can approve a claim on the spot, but it may take several more weeks before a visa is issued while security clearances, civil requirements, and medical records are reviewed. "From 'woe' to 'go' generally takes 2 to 3 months," he said.

However, the numbers reaching Canada by this route remain small, for a variety of reasons. "One problem is that claims are not well documented," Metcalf said, adding there is a problem with Central American men having common-law wives and children. Under Canadian law, he explained, the marriages are not recognized and the children of such marriages are considered to be illegitimate. Fifty percent of Central American family cases involve unwed couples, according to Metcalf. "We don't touch these cases."

Additional restrictions result because Canada, like many other nations, has a limited number of refugee slots. In the Canadian system there are two kinds of sponsorships, government and private.

Metcalf said that Canadian consulates are allowed a limited number of government sponsorships for refugees from various nationalities. These limits are called "planning targets." In addition, only three

consulates in the United States have planning targets for Central Americans: Dallas, Atlanta, and Los Angeles. The planning target for the Atlanta consulate has been about 300 for the last three years, Metcalf said.

No such limits are placed on private sponsors, but they must agree to accept full financial responsibility for an asylee for up to one year. As in government sponsorship, those responsibilities include providing housing and subsistence allowances, language training, employment counseling, job referrals, and other orientation services. The Overground Railroad also helps locate such private sponsors in Canada.

Last year, Metcalf said, a total of 426 government and privately sponsored Central Americans were approved for resettlement in Canada from his consulate.

Though the numbers are small, members of Jubilee Partners, such as Ed Weir, see the work as a continuation of their long involvement in the refugee field. "We started in 1979 helping with the boat people," Weir said. "We began an orientation center for Cubans, then we worked with Cambodians and Laotians." Weir recalled how one day a volunteer from Texas said, "you should go down and look at the refugees there." That's how he met the woman from El Salvador and heard her story.

Meetings and Conferences

° A refugee service-provider conference, "Directions for the Future," is being sponsored by the Illinois Department of Public Aid--Refugee Resettlement Program S.T.A.G.E.S. Project. It will be held in Chicago between April 30 and May 1, 1987. Conference sessions will offer both theoretical and practical information on issues including national and international refugee policies and status; findings of ORR-funded research; health and mental health issues; and new directions in resource development.

Conference participants will include administrators, supervisors, and field staff in refugee service-provider agencies. Region V agencies will automatically be sent an invitation. For registration information, call the S.T.A.G.E.S. Project at (312) 870-4166.

° The International Counseling Center, a private, nonprofit organization, will be sponsoring a conference on "Crossing Cultures in Mental Health: Programs, Models and Treatment Strategies" on May 7-8 at George Washington University in Washington, D.C.

Workshops will focus on such topics as the psychological trauma of Cambodian and Central American refugees, mental health counseling with refugees, and models of clinical social work with Vietnamese refugees.

The advance registration fee (due by April 27) is \$135.00. For more information, contact Diane R. Koslow, Ph.D., Conference Coordinator, International Counseling Center, 2121 Wisconsin Avenue, NW, Suite 200, Washington, DC 20007. (202) 333-5452.

Resources

STATE DEPARTMENT REPORTS ON HUMAN RIGHTS PRACTICES

The U.S. State Department released its Country Reports on Human Rights Practices for 1986 in February. The 1,356-page report is a comprehensive survey of human rights practices throughout the world. Reports on each country include sections on the status of various rights, such as freedom from political killings, disappearances, torture, arbitrary arrests and detention, or denial of fair trials, free speech, peaceful assembly, and religion.

Of particular interest to monitors of refugee situations are sections on freedom of movement within a country, foreign travel, emigration, repatriation, and exile. The report also gives an account of U.S. bilateral and multilateral loans and grants to those countries receiving U.S. aid.

Below are excerpts from selected reports. All material is quoted directly.

Mozambique By the end of 1986, nearly 1 million Mozambicans of a population of 14 million had fled either to the cities or to neighboring countries. In September alone, over 400,000 persons were displaced. In addition to abuses by RENAMO forces, FPLM

and SNASP forces committed excesses against civilians.

South Africa Since the inception of the Government's homelands policy, in the 1960's, an estimated 8 million South African blacks have been rendered aliens in the Republic of South Africa by virtue of what the Government characterizes as their "citizenship" in one of the so-called "independent" homelands (Transkei, Ciskei, Bophuthatswana, and Venda). They are subject to the same travel and residence restrictions in "white" South Africa as any alien.

Sudan No statistics are available on abuses in war zones, but the migration of people out of these areas and their chilling reports imply widespread disregard for human life and basic human rights by all parties active there.

El Salvador An estimated 400,000 people (down from a previous level of 500,000) are displaced within El Salvador by the conflict, primarily from the northern and eastern zones. As the level of violence falls, an increasing number of refugees are returning from abroad. More than 4,000 have returned from other Central American countries during the past 4 years, according to the UN High Commissioner for Refugees. Even larger numbers of internally displaced persons appear to be moving back to their homes with government assistance.

Haiti Large numbers of Haitians continue to attempt to leave Haiti for economic reasons. Their primary destination is the United States. Pursuant to a 1981 U.S.-Haitian agreement on the interdiction of undocumented migrants, about 3,000 illegal migrants were repatriated to Haiti by the U.S. Coast Guard in 1986.

Vietnam Reports from refugees are consistent and credible concerning the severity of the conditions for prisoners in the reeducation camps. Prisoners face severe and often arbitrary punishment for minor infractions of camp rules, substandard nutrition, and poor or nonexistent medical care. Political prisoners routinely are made to do hard labor. These conditions have resulted in acute suffering, permanent physical impairment, and often times death. It has been

reported that persons imprisoned for attempting to flee Vietnam have been beaten to death during interrogation.

...Refugees continued to leave Vietnam clandestinely during 1986, although at a somewhat slower rate than in previous years. Hanoi and provincial radio stations have broadcast reports of executions or lengthy jail sentences for organizers of failed escape attempts, as well as lesser punishments dealt to others implicated.

Thailand The Government's program to screen individual Laotian arrivals, in place since 1985, continues to function, even though the Lao government has so far declined to accept back any of its citizens who have been found inadmissible as refugees.

There are occasional reports that individuals and groups, especially Hmong highlanders, have been denied access to the screening system and compelled to return to Laos. This issue is complicated by the fact that some of these would-be entrants are Lao resistance elements, rather than simple asylum-seekers. Vietnamese coming overland via Cambodia after April 1981 have had to remain at the border for lengthy periods until they were allowed to be considered for third country resettlement. In October about 3,500 overland Vietnamese were on the border. Although the Government closed Khao I Dang holding center to new refugee arrivals from Cambodia in early 1980, another 11,200 Cambodians who surreptitiously entered Khao I Dang since then have been given full access to the center's facilities. Cambodians caught trying to enter Khao I Dang or who violate Thai camp rules have been returned to camps for displaced Khmer on the Thai side of the border.

The UNHCR and the major resettlement countries have supported the Thai policy for promoting voluntary repatriation when that is possible. About 2,900 Lao have returned to their homeland under UNHCR supervision following successful bilateral Thai/Lao negotiations in September 1980. UNHCR negotiations with the Heng Samrin regime concerning the repatriation of Khmer refugees remain stalled. The Government of Vietnam has been unwilling to discuss repatriation of Vietnamese in Thailand. The vast majority of Indochinese in Thailand are not willing to return to their home countries.

Since 1979 nearly 84,000 Vietnamese refugees have arrived in Thailand after perilous journeys across international waters, often in small, unseaworthy boats. Although considerably less than the peak years of 1979-81, the number of arrivals in 1986 averaged about 340 persons per month, slightly higher than the monthly average in the previous 2 years. Boat people continue to suffer from pirate attacks, equipment breakdowns, and navigational problems which cause sickness, starvation, and death.

USSR Jewish, ethnic German, and Armenian emigration remained at severely restricted levels, despite the desire of many thousands to emigrate. Jewish emigration was the second lowest in 20 years. Those few who were allowed to emigrate during 1986 included a number of prominent "refuseniks" whose applications had been pending for more than 10 years.

In early November, the Soviet authorities made public regulations controlling the granting of exit permission to Soviet citizens. In singling out family reunification as the only legitimate ground for emigration, the regulations violated the Soviet commitment to the Universal Declaration of Human Rights, which was incorporated into the Helsinki Final Act.

Iraq Iranian military deserters and civilians who fled to Iraq during the war have been detained and sometimes mistreated. Most of these people reportedly came to Iraq, after long and hazardous journeys through Kurdistan, in response to Iraqi propaganda promising good treatment and easy access to third countries. In response to the decrease in such Iraqi propaganda, the numbers of new arrivals at refugee camps have lessened. There have been frequent allegations that some have been shot or beaten with rubber hoses and metal cables. Some Iranian refugees reportedly have been coerced to collaborate with Iraqi propaganda despite the danger to family members in Iran. When, after many months, these emigres are designated "political refugees," their treatment improves and outside organizations gain access to them.

Pakistan Pakistan provides refuge to nearly 3 million Afghans and is the target of an intense campaign of Soviet-inspired

disinformation, sabotage, and subversion. In 1986 dozens died in explosions throughout the Northwest Frontier Province--most believed to be the work of agents of the Kabul regime. Soviet and Afghan government forces have frequently shelled and bombed Pakistan border areas, killing more than 100 people through midyear.

How to Order the Report Copies of the report are available for \$31 from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

RIGHTS GROUPS CRITIQUE U.S. RECORD

The Lawyers Committee for Human Rights and the three Watch Committees (Americas Watch, Asia Watch, and Helsinki Watch) have collaborated on a recently published critique of the Reagan administration's human rights record for 1986. The February 1987 report, The Reagan Administration's Record on Human Rights in 1986, is a useful companion volume to the State Department's Country Reports on Human Rights Practices for 1986 (see above).

In addition to an overview and detailed country reports on U.S. human rights reporting and policies for 31 countries and the United Nations, the report includes a section on refugee, asylum, and immigration policy.

The 178-page report is available for \$8 from the Watch Committees, 36 West 44th St., New York, NY 10036. (212) 840-9460.

DETENTION OF ALIENS IN THE U.S. CRITICIZED

The United States' policy of detaining asylum seekers is criticized and conditions in INS holding centers are described in Mother of Exiles, published by the Lawyers Committee for Human Rights and Helsinki Watch.

"Many refugees are detained for prolonged periods even though no one has argued that they endanger the security or public safety of the United States, or that they will flee," the report says. "The purpose of detaining refugees is punitive: our government believes that if we make it painful for these refugees to try to enter the United States, some of them will give up their effort to stay here and we will

deter others from following in their footsteps."

The report describes conditions in the centers as grim, often unsanitary and overcrowded, and a threat to the personal safety of the detainees.

The 76-page book features eight case histories from asylum seekers in detention. These testimonies reveal the depression and fear among those who had fled to the United States seeking its protection from persecution and violence.

"After 25 years of my suffering, I end up in an American jail," recounted Robert Gardner, a South African in detention in New York. "I thought I would find freedom as a refugee in this country, but my suffering continues. I came here to hide from persecution, but now I experience a new type of persecution....This is beyond my limit. Here my heart beats fast and my body shakes. Being here is like a bad dream."

Mother of Exiles: Refugees Imprisoned in America is available for \$8 from the Lawyers Committee for Human Rights, 36 West 44th Street, Suite 914, New York, NY, 10036.

MANUAL EXPLAINS U.S. IMMIGRATION LAW

The National Center for Immigrants' Rights has published a manual providing an overview of U.S. immigration and naturalization law. The manual is geared toward those working with indigent clients by, for example, including a chapter on aliens' rights to public benefits. A section on refugees and asylees gives a helpful introduction to their rights. The manual also includes a thorough treatment of alien children's rights, which discusses, among other things, children with asylum claims and those in INS detention.

The 131-page paperback includes copies of relevant immigration forms and documents. Liberal use of footnotes and an annotated bibliography indicate sources for more detailed information.

The manual, Immigration and Naturalization Law, Second Edition, is available free of charge to nonprofit organizations that serve or represent aliens. For attorneys in private practice, the cost is \$15. To order copies, contact the National Center for Immigrants' Rights, 1636 West Eighth St., Suite 215, Los Angeles, CA 90017.

INDOCHINESE CAMP POPULATIONS BY ETHNIC GROUP As of January 31, 1987						
COUNTRY	CAMP	LAO	HIGHLAND	KHMER	VIETNAMESE	TOTAL
HONG KONG	ABCYLE ST. CAMP I	0	0	0	347	347
	201 MA WEN	0	0	0	1,250	1,250
	HET LING CHAU	0	0	0	2,020	2,020
	JUBILEE PRCP. CENTER	0	0	0	1,864	1,864
	KAI TAY NORTH	0	0	0	1,580	1,580
	QUARANTINE ANCHORAGE	0	0	0	19	19
	TUEN MUN	0	0	0	941	941
	VICTORIA REMAND CEN.	0	0	0	28	28
	SUBTOTAL	0	0	0	8,059	8,059
INDONESIA	CELANG - 1ST ASYLUM	0	0	41	3,549	3,590
	CELANG PFC	0	0	0	40	40
	SUBTOTAL	0	0	41	3,589	3,630
JAPAN	JAPAN	0	0	0	793	793
KOREA	PUSAN	0	0	0	208	208
MACAU	KARO	0	0	0	611	611
MALAYSIA	PELAI RIDONG	0	0	0	4,951	4,951
	SUKET WEST	0	0	0	3,135	3,135
	SUBTOTAL	0	0	0	8,086	8,086
PHILIPPINES	BATAAN CDP	0	0	0	4,392	4,392
	BATAAN PFC	2,517	0	929	4,523	7,969
	PALAWAN	0	0	0	2,529	2,529
	PPTC	0	0	0	78	78
	SUBTOTAL	2,517	0	929	11,520	14,966
THAILAND	BAN NAM YAO	0	1,692	0	0	1,692
	BAN UINAI	298	43,823	0	0	44,121
	BANGKOK TRANSIT	48	9	96	0	253
	CHIANG MAH	110	11,897	0	0	12,007
	KAPCHENG	0	0	1,112	0	1,112
	KHRO-1-DANG	0	0	22,011	0	22,011
	KAPRO	22,458	870	0	0	23,328
	PHANAT NIKHOM PFC	329	3,872	539	0	4,740
	PHANAT PROCESSING	852	120	1,315	6,602	8,889
	PHANAT TRANSIT	772	125	1,565	1,005	3,467
	SUBTOTAL	25,061	59,213	26,440	7,197	117,911
TAIWAN	TAIWAN	0	0	0	168	168
GRAND TOTAL		27,578	59,213	27,410	41,730	155,931

Source: Department of State Bureau for Refugee Programs

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